

STATE OF VERMONT
CHITTENDEN COUNTY, SS.

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DEC 16 1999

DIANE A. LAVALLIE
CLERK

SARA CHEESEMAN and RONALD,
RODJENSKI on Behalf of Themselves
and All Others Similarly Situated,

Plaintiffs,

v.

MICROSOFT CORPORATION,

Defendant,

CHITTENDEN SUPERIOR
COURT DOCKET NO.

S1496-97-Cn Cn

CLASS ACTION COMPLAINT
JURY TRIAL DEMANDED

Plaintiffs Sara Cheeseman and Ronald Rodjenski, by their attorneys, for their Complaint, allege upon information and belief, except as to the allegations contained in ¶¶ 7, 8 and those regarding plaintiffs' adequacy to represent the Class which are made on personal knowledge, as follows:

SUMMARY OF ALLEGATIONS

1. On November 5, 1999 the Honorable Thomas Penfield Jackson issued findings in United States of America v. Microsoft Corp., Civil Action No. 98-1232 (TPJ), State of New York et al. v. Microsoft Corp., Civil Action No. 98-1233 (TPJ) ("the Findings").

2. Based in whole or in part on the Findings, plaintiff allege that defendant engaged in unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of 9 V.S.A. §2451, et seq. ("unlawful steps"), and, as a consequence of such conduct, charged supracompetitive prices for its Intel-compatible personal computer ("PC") operating systems (including Windows program products) as further alleged in paragraphs 14-21 below.

3. Based upon economic opinion, the Findings and other information, plaintiffs allege that a portion of the supracOMPETITIVE price that plaintiffs and others similarly situated paid for defendant's monopolistic products resulted directly and proximately from defendant's unlawful steps, in violation of 9 V.S.A. §2451 *et seq.* ("unlawful price inflation and overcharges").

4. Plaintiffs and others similarly situated have suffered damages in their property consisting of the unlawful price inflation and overcharges which they have paid and are entitled to recover damages from defendant therefor.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Defendant because its activity in Vermont is regulated under the laws of the State of Vermont and Defendant does sufficient business in, has sufficient minimum contact with, and intentionally avails itself of the markets of the State of Vermont through the promotion, marketing, and distribution of its products in Vermont. Plaintiffs have been injured in this State as a result of defendant's unlawful conduct described herein and because defendant's conduct violated 9 V.S.A. §2451, *et seq.* In addition, neither plaintiff nor any individual Class member has suffered damages in excess of \$75,000.00.

6. Venue is proper in this judicial circuit because the defendant transacts business and has committed the acts complained of herein in Vermont, and/or has committed tortious acts outside of Vermont which have caused injuries in Vermont.

PARTIES

7. Plaintiff Cheeseman is a resident of Chittenden County, Vermont. In 1998, Plaintiff Cheeseman purchased a computer system, with the Windows 98 Upgrade installed.

8. Plaintiff Rodjenski is a resident of Chittenden County, Vermont. In or around 1995, Plaintiff Rodjenski purchased a computer system, which was delivered with Windows 95 software.

according to law) for violations of 9 V.S.A. § 2451, et seq., in amounts to be established at trial (as well as taxable costs and reasonable attorneys' fees);

C. Enjoining defendant from further conduct in violation of 9 V.S.A. § 2451, et

seq.;

D. Ordering that Microsoft disgorge its ill-gotten and unlawful gains obtained as a result of its unlawful conduct and that a constructive trust or lien be imposed over all funds or assets traceable to those ill-gotten gains; and

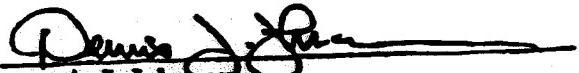
D. Awarding prejudgment interest and such other different or further relief as the Court may deem fit, just and proper.

JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

Dated: December 15, 1999

Respectfully submitted,


 Dennis J. Johnson
 Jacob B. Parkinson
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